

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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EVAN N. WESTMORELAND,

Plaintiff,

v.

No. 9:03-CV-1502  
(J. Scullin)

DR. J. FLAGED; DR. WELDON,

Defendants.

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APPEARANCES:

OF COUNSEL

EVAN N. WESTMORELAND  
Plaintiff pro se

ELIOT SPITZER  
Attorney General of the State  
of New York

RISA L. VIGLUCCI  
Asst. Attorney General

**FREDERICK J. SCULLIN, JR., D.J.:**

**DECISION AND ORDER**

The above-captioned matter having been presented to me by the Report-Recommendation of Magistrate Judge Gustave J. DiBianco filed November 14, 2005, and the Court having reviewed the Report-Recommendation and the entire file in this matter, and no objections to said Report-Recommendation having been filed, it is hereby

**ORDERED**, that the Report-Recommendation of Magistrate Judge Gustave J. DiBianco filed November 14, 2005 is **ACCEPTED** in its

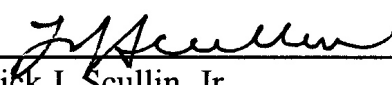
entirety, for the reasons stated therein and it is further

**ORDERED**, that the defendants' motion to dismiss is **GRANTED** and the complaint is **DISMISSED** due to plaintiff's failure to notify the court of his change of address and for failure to prosecute, and it is further

**ORDERED**, that the Clerk of the Court is to enter judgment in favor of the Defendants and close this case.

**IT IS SO ORDERED.**

**Dated:** December 6, 2005  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Chief United States District Court Judge